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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

VAN HAZEWINDEL, as Successor Trustee,
etc.

Plaintiff and Appellant,

v.

RICHARD B. MACGURN,

Defendant and Respondent.

D053432

(Super. Ct. No. 37-2007-00055601
CU-NP-NC)

ORDER MODIFYING OPINION
AND DENYING PETITION
FOR REHEARING

[NO CHANGE IN JUDGMENT]

THE COURT:

The petition for rehearing is denied.

It is ordered that the opinion filed May 8, 2009, be modified as follows:

1. The reference to Probate Code section 850, subdivision (a)(3) in the first sentence of the last paragraph of page 5 is changed to Probate Code section 850, subdivision (a)(3)(B).

2. The second sentence of the first paragraph on page 19, together with footnote number 6 and the first word of the following sentence, are deleted, so the paragraph reads as follows:

This argument is unavailing. Van's petition was more than an objective pleading to seek instructions from the court. Van affirmatively sought an order from the court providing that Wanda shall "take nothing" from the Survivor's Trust, and an order declaring that Ben's one-half interest in the Vista property was an asset of the trust.

3. The deletion of footnote number 6 requires renumbering of all subsequent footnotes.

There is no change in the judgment.

HALLER, Acting P. J.

Copies to: All counsel